

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FILED
APR 28 2021

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS OFFICE

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JASON E. SPENGLER,)
)
Defendant.)

CRIMINAL NO. 21-CR-30058-DWD

STIPULATION OF FACTS

The United States of America, by and through Steven D. Weinhoeft, United States Attorney for the Southern District of Illinois, and Peter T. Reed, Assistant United States Attorney, enter into the following Stipulation of Facts with Defendant Jason E. Spengler, and his counsel Justin Kuehn, pertaining to the conduct of the Defendant charged in the information in this case and the relevant conduct of the defendant within the scope of U.S.S.G. § 1B1.3.

1. As charged in Count One of the Information in Case No. _____, on or about April 21, 2020, Defendant Spengler signed and submitted to U.S. Bank National Association ("U.S. Bank") a Paycheck Protection Program Borrower Application Form, Form 2483 ("Application Form"), on behalf of Spengler Plumbing Co. Inc. ("Spengler Plumbing") that contained a materially false statement.

2. Spengler Plumbing is a privately held business located in O'Fallon, Illinois. Defendant Spengler is the sole owner of Spengler Plumbing.

3. U.S. Bank is a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation ("FDIC"). U.S. Bank was also a participating lender in the Paycheck Protection Program.

4. The U.S. Small Business Administration (SBA) is an agency within the executive

branch of the United States government.

5. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to Americans who were suffering the economic effects caused by the COVID-19 pandemic.

6. One source of relief provided by the CARES Act was the Paycheck Protection Program, a federal loan program run by SBA that provided loans to help qualifying businesses keep their workforce employed during the Coronavirus (Covid-19) crisis.

7. The first question on the Paycheck Protection Program Application Form asks, "Is the Applicant or any owner of the Applicant . . . presently involved in any bankruptcy?" Above this question, the Application Form states that "the loan will not be approved" if the applicant answers "Yes."

8. Defendant Spengler checked "No" on the Application Form, indicating that Spengler Plumbing was not in bankruptcy:

If questions (1) or (2) below are answered "Yes," the loan will not be approved.

| # | Question | Yes | No |
|----|--|--------------------------|-------------------------------------|
| 1. | Is the Applicant or any owner of the Applicant presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

9. Defendant Spengler also signed the Application Form, certifying that:
- He had read and understood the statements included in the application;
 - Spengler Plumbing was eligible to receive a loan under the rules in effect at the time the application was submitted;
 - The information provided on the loan application was true and accurate in all material respects; and
 - Knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 U.S.C. §§1001 and 3571 by

imprisonment of not more than five years and/or a fine of up to \$250,000.

10. By checking “No,” Defendant Spengler knowingly and willfully made a false statement to U.S. Bank in order to obtain a guaranteed loan from SBA. Spengler Plumbing had filed for bankruptcy on August 19, 2019 and remained in bankruptcy at the time Defendant Spengler submitted the Application Form to U.S. Bank on April 21, 2020. *See In re: Spengler Plumbing Co. Inc.*, 19-30958-lkg (S.D. Ill. Bankr.). Defendant Spengler signed the bankruptcy petition on behalf of Spengler Plumbing.

11. As the Application Form explained, the loan would not have been approved if Defendant Spengler checked “Yes.” Under rules promulgated by the SBA, entities in bankruptcy were not eligible for loans under the Paycheck Protection Program. *See* SBA’s Fourth Interim Final Rule, 85 Fed. Reg. at 23451. Thus, Spengler Plumbing’s loan application would not have been approved but for Defendant Spengler falsely checking “No.”

12. Based on the Application Form signed by Defendant Spengler, and the false statement contained therein, U.S. Bank issued a loan under the Paycheck Protection Program to Spengler Plumbing Co. Inc. in the amount of \$487,095.00 on April 23, 2020.

13. Defendant Spengler and Spengler Plumbing did not seek or obtain authorization from the bankruptcy court for Spengler Plumbing to incur the new unsecured debt, as required by 11 U.S.C. § 364.

14. Debtors in bankruptcy are required to submit Monthly Operating Reports to the bankruptcy court. Question 15 of the Monthly Operating Report form asks “Have you borrowed money from anyone or has anyone made any payments on your behalf?” Spengler Plumbing’s April 2020 Monthly Operating Report answered “No” to this question, indicating it had not borrowed money in April 2020. A later note in the Monthly Operating Report adds, “Received CARES Act relief money to alleviate some struggles with decreases.” Defendant Spengler signed

the report on behalf of Spengler Plumbing.


15. On June 16, 2020, a representative of the bankruptcy trustee asked Defendant Spengler, through counsel, about the new loan and Spengler Plumbing's failure to seek authorization to undertake new debt.

16. On June 25, 2020, Spengler Plumbing repaid \$176,751.85 of the Paycheck Protection Program loan to U.S. Bank. The business had already spent approximately \$310,343.15.


17. As a result of the false statement on the loan application, Spengler Plumbing is not eligible for loan forgiveness from the SBA under the Paycheck Protection Program.

SO STIPULATED:


STEVEN D. WEINHOFET
United States Attorney



JASON E. SPENGLER
Defendant



PETER T. REED
Assistant United States Attorney



JUSTIN KUEHN, Esq.
Attorney for Defendant

Date: 4/1/21

Date: 04/01/2021